A. STATUS OF THE CLAIMS

As a result of the present amendment, claims 1-7 and 9-16 are presented in the case for continued prosecution. Claim 8 has been canceled and the subject matter is presented in new claims 11 and 12. The remaining new claims recite further features described in the specification. No new matter has been added.

B. THE INVENTION

The present invention relates to a method for removing contaminants from textile by treating the textile with an effective amount of a fructan polycarboxylic acid which contains on average at least 0.05 carboxyl units per monosaccharide unit. The invention is generally carried out in the textile processing industry on raw materials (e.g. natural textile such as cotton, linen, jute, silk or wool) or semi-manufactured products rather than in the household laundering of clothing. It has been surprisingly found that the claimed method effectively removes contaminants that are typically present in raw natural materials (after harvesting) such as sand particles, plant protection agents, defoliants, plant remains and (in wool) contaminants originating from the wool-producing animal itself. The method of the invention can also be used to remove contaminants from synthetic materials where contaminants introduced in the manufacturing process.

The specification, on page 2, lines 20 et seq. reports that the prior art methods relied on the use of compositions containing polyacrylates which are harmful to the environment. The methods of the present invention, however, represent an environmentally sound alternative thereto since it uses fructan polycarboxylic acids which are biodegradable .

C. REJECTION OF CLAIM 8

The Examiner has rejected claim 8 under 35 U.S.C. § 112, second paragraph and under 35 U.S.C. § 101. In response, applicants have canceled the claim, thereby rendering the rejection moot.

D. REJECTIONS UNDER 35 U.S.C. §103

At page 3 of the Office Action, the Examiner has rejected the subject matter of claims 1-10 as being unpatentable (obvious) over Besemer et al., US 5,326,864. The Examiner has taken the position that the polysaccharide based polycarboxy compounds prepared from inulin preform the same task as that achieved by the present invention and would remove contaminants from textiles. The Examiner has also taken the position that the same claims are unpatentable (obvious) in view of Verraest et al., US 5,777,090. In this rejection, the Examiner has taken the position that the carboxylmethyl inulin of '090 patent would remove contaminates from textile as they are designed for use as laundry detergents. Reconsideration and removal of each rejection is respectfully requested.

Applicants respectfully urge that a proper *prima facie* case of obviousness has not been made by the Examiner. A *prima facie* case of obviousness is established only when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. The art must suggest how to apply its teachings to the specifically claimed invention.

The Besemer '864 patent discloses calcium complexing polycarboxyinulin compounds and methods of preparing the same. At the bottom of column 2 of the patent, it is stated that the compounds are suitable as a replacement for phosphate in detergents among other uses. It is well known in the detergent arts that phosphates are used in detergents to overcome problems associated with hard water and are thus chelating agents. There is no disclosure or suggestion in the '864 patent regarding how much of the polycarboxyinulin compounds to use in a process similar to that claimed by applicants or that it would be advantageous to use such amounts as a replacement for polyacrylamides to remove contaminants.

The '090 patent has similar disclosure and teaches a method of preparing carboxylmethyl inulin derivatives. As was the case with the '864 patent, there is no disclosure relating to the use of fructan polycarboxylic acid derivatives which contain on average at least 0.05 carboxyl units

per monosaccharide unit in a process designed to replace polyacrylamides. Both references are thus very meager in pointing out how to employ the inulin derivatives and certainly do not contain disclosure concerning what an effective amount would be to achieve removal of contaminants. Indeed, there is no guidance in either reference for carrying out the claimed process in the boiling off, bleaching, dying or rewashing of the textile. Thus, there are significant shortcomings associated with each reference and it cannot be said that the invention as defined by the amended claims would have been obvious thereover. The Examiner's attention is directed to **In re Fritch**, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992) which states:

> "It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.' (quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

Applicants assert that in the present case, to maintain the rejections would be to engage in impermissible hindsight.

Applicants further assert that the obviousness rejections cannot be sustained because the required reasonable expectation of success using the teaching of the cited references has not been shown. The '090 and '864 compounds are disclosed as being used in detergents as a calcium binder or as an inhibitor for calcium carbonate crystallization. Applicants urge that from these stated purposes and the disclosure of the respective references, the skilled person would not be led to the idea of using a fructan polycarboxylic acid in a method for treating types of textiles (raw or semi-manufactured) as applicants have done, nor do they show such compositions being used under conditions effective to remove contaminants such as mentioned above. Applicants urge that there is absolutely no basis from the disclosures upon which to have any reasonable expectation of success. For example, there is no suggestion in the cited prior art that it would be possible to achieve that purpose with a fructan as defined in the present claims. There is also no

suggestion given for the necessary processing conditions under which such an effect would occur on textiles. In short, the skilled person would have no reason to assume the fructan polycarboxylic acid would have the capacity to remove contaminants such as indicated above from textile based on disclosures which teach that inulin derivatives having the capability of controlling calcium carbonate crystallization or the capacity to complex calcium. More specific information would be required such as the dispersing capacity and surface activity of a compound.

A still further rationale for removing the obviousness rejections is provided in the PCT International Preliminary Examination Report (IPER) corresponding to the international application from which this application is based. That Examiner recognized the differences between the claimed processes which would be carried out in the textile processing industry where raw materials and/or semi-manufactured products of cotton or wool are treated as compared to the routine laundering of the shirt. The PCT further stated in the IPER that the claims were novel and contained an inventive step over the prior art. It is acknowledged that the Examiner of this application has not relied on the same exact pieces of prior art, but Applicants wish to point out the similarity of the '090 patent and the Verraest et al. reference cited in the IPER.

In view of the above arguments and further in view of the amendments to the claims, it is respectfully submitted that Applicants have obviated the rejections under 35 U.S.C. § 103. It is also submitted that no *prima facie* case of obviousness has been established either for the claimed invention. Applicants have shown that each of the references is not the invention and each reference does not suggest the invention. Reconsideration and removal of the rejections is therefore proper and requested.

D. PROVISIONAL EXTENSION OF TIME PETITION

This response is being filed within the shortened statutory time limit. No further fees are believed to be required. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 50-0217.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 50-0217.

E. CONCLUSION

In view of the actions taken and arguments presented, it is respectfully submitted that the present application is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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By: _____
Michael N. Mercanti

Docket No. 310.1016

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: **BOYER, Charles I**	Art Unit: 1751
Re: Application of:	**KUZEE, H. C., et al.**
Serial No.:	09/719,144
Filed:	March 30, 2001
For:	**METHOD FOR TREATING TEXTILES**

APPENDIX I- Version with markings to show changes made

IN THE SPECIFICATION:

The following paragraph has been inserted after the title and before line 1 on page 1:

-- This application is a 371 of PCT/NL99/00361 dated June 10, 1999.--.

IN THE CLAIMS:

Claim 1 has been amended as follows:

1. (Amended) A method of removing contaminants from textile, wherein the textile is treated with an effective amount of a fructan polycarboxylic acid which contains on average at least 0.05 carboxyl groups per monosaccharide unit.

New claim 11 has been added:

11. (New) A method of removing contaminants from textiles, comprising contacting a textile with an effective amount of a fructan polycarboxylic acid containing on average at least 0.05 carboxyl groups per monosaccharide unit.

New claim 12 has been added:

12. (New) The method of claim 11, wherein said contacting is carried out during washing, boiling off, bleaching, dying or rewashing of said textile.

New claim 13 has been added:

13. (New) The textile treated by the method of claim 11.

New claim 14 has been added:

14. (New) The method of claim 1, wherein said fructan polycarboxylic acid is based on fructans having a chain length of at least 10.

New claim 15 has been added:

15. (New) The method of claim 11, wherein said fructan polycarboxylic acid is based on fructans having a chain length of at least 10.

New claim 16 has been added:

16. (New) The textile treated by the method of claim 1.

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By: _____
Michael N. Mercanti

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